

REMARKS

Claims 8 and 9 have been canceled. Claims 1, 5, 6, 14, 22-25, 28 and 29 have been amended to correct typographical errors. These changes have been made to place the application in better form for examination and to further obviate the 35 U.S.C. §112 and §102 rejections set forth in the Office Action dated December 23, 2004. It is believed that none of these amendments constitute new matter. Withdrawal of these rejections is respectfully requested.

The Examiner has objected to claims 1, 6, 22, 23, and 28 for inclusion of a blank line where the ATCC Accession number should be. Upon allowance of this application, Applicant will amend the claims with the ATCC Accession number. Withdrawal of this objection is respectfully requested.

The Examiner has rejected claims 1-29 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. As stated in the specification on page 29, the seed deposit is being maintained by the Arkansas Crop Variety Improvement Program at its Fayetteville, Arkansas facility. The deposit will be available to the Commissioner during the pendency of this application and, upon allowance of any claims, a deposit of the cowpea seed will be made with the American Type Culture Collection.

The undersigned avers that:

- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit will be performed; and

e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

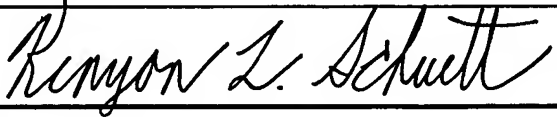
Accordingly, withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 8 and 9 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant has canceled claims 8 and 9. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 8 and 9 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has canceled claims 8 and 9. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 9 under 35 U.S.C. §102(b) as being anticipated by Kline et al (Hortscience 32(5):945-946, 1997). Applicant has canceled claim 9. Withdrawal of this rejection is respectfully requested.

In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §112 and §102. Reconsideration of this application and early notice of allowance is requested.

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED					
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